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REMARKS

Claims 1-3 and 5-20 remain in the application. Claim 4 is cancelled.

The objections to, and the §112 rejections of the claims have been addressed by amendment.

Claim 1 has been amended to incorporate the limitations of original claim 4, which has been canceled.

Claim 21 has been added to reflect original claim 3, with additional clarifying language.

§102 Rejections

Claims 1-3 and 13 were rejected under §102 as anticipated by Ko. The amendment of claim 1 to reflect the limitations of claim 4 obviates the rejection.

Claim 4 (and 5-9 and 11-12) was rejected under §103 as unpatentable over Ko in view of Coffman. Ko discloses a flashlight with no rotatable ring control. Coffman discloses a flashlight with a rotatable switch that switches among several different lamps (beam, strobe, fluorescent) on the light.

The rejection is in error first because neither cited reference discloses a rotary dimming control. Applicant is claiming a second switch that establishes "a degree of delivered power" and which is "a ring rotatable about the axis." Ko lacks any rotary switch, and Coffman's switch is unrelated to dimming, or establishing a degree of anything. It simply selects among different lamps.

The second error in the rejection of claim 4 (now applicable to claim 1) is in the assumption that Ko would apply the teaching of Coffman in the manner asserted in the action. Ko has several switches, each with a different function. Why would Ko look to a switch for different lamps, and apply it to a dimming switch, and not to the functions of the other switches? The combination appears to be drawn in hindsight based on applicant's disclosure, because a rotary selector switch could as easily be applied to one of Ko's switching functions other than the dimming function.

The third error in the rejection is in that there is no evidence that adopting the Coffman switch for Ko would result in a functional product. Coffman's switch has a very limited number of contacts, and there is no indication of how such a simple switch may be connected to the Ko

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controller to achieve the dimming function that Ko already enjoys. Adopting the Coffman switch would also limit the number of switch positions to a limited few, an undesirable result that requires redesigning the switch to add complexity, or suffering reduced dimming options. Accordingly, the references teach away from the combination for either of these reasons.

The fourth error in the rejection is that the asserted motivation is inadequate. The action states with respect to claim 4 only that the modification would prevent corrosion and water damage. While Coffman states that it is waterproof and corrosion resistant, there is no evidence that: 1. Ko is lacking in this area, 2. Coffman has superior water resistance to Ko, or 3. That adopting the switch of Coffman would improve Ko's water resistance.

Claims 2, 3, 5-12 depend from claim 1, and should be allowable for the above reasons, and because of the features set forth therein.

Claim 11 should be allowable for the additional reason that the action does not point out where the cited reference discloses the claimed features of establishing the degree of power based on absolute switch position. This appears to be a feature not found in either cited reference.

Claim 12 should be allowable for the additional reason that the action does not point out where the cited reference discloses the claimed features of establishing the degree of power based on a duration of rotational force applied to the switch. This appears to be a feature not found in either cited reference.

Claim 10 was rejected under §103 as unpatentable over Ko in view of Hauck. Hauck is cited for disclosing a novelty device that has several different color lamps.

The rejection is in error first because the references are from widely different fields of art; a flashlight would not look to a novelty toy for improvements.

The second error is in the inadequacy of the proposed motivation to adopt the colored lights of Hauck. The action asserts "aesthetic appeal and greater control with respect to illumination", with no evidence that changing light colors would provide enhanced aesthetics, that colors would be desired by Ko, or how offering multiple colors has any positive effect on "control." Colors provide color alternatives, not necessarily desired ones, and they do not offer control.

The third error in the rejection is in that there is no evidence of how or whether adoption of the Hauck toy concept could be practically applied to Ko. Adopting multi color functionality

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would require significant mechanical, electrical, and optical changes, and control schemes that are not disclosed. It is disadvantageous to incur complex and uncertain modifications in a product when there is no suggestion that the change is desirable, except in hindsight.

Accordingly, the references teach away from the proposed combination.

For these additional reasons, claim 10 should be allowable.

Claims 14 and 15 have been amended for clarity, obviating the rejections.

Claim 16 was rejected under §103 in view of McDermott '879, which discloses a flashlight having a dimming control, and a gravity switch to prevent illumination in certain orientations. The gravity switch appears to have only two states, on and off. The cited reference is incapable of operation by the claimed method. Its switch other than the dimming switch does not have an intermediate functional position. Moreover, the switch cited as the first switch has no control over whether the light source is illuminated at the dimmed level or the maximum level. The action asserts that "the user may" illuminate the light source at the maximum level, but this is not what is claimed, which is the maximum illumination occurring in response to full actuation of the switch. McDermott gets max illumination only in response to the user changing the dimming control, not in response to operation of the other switch.

Accordingly, claim 16 and its dependents should be allowable.

Claim 18 should be allowable because there is nothing in the cited passage to suggest setting dim levels based on the duration of a force application. The cited passage discloses a switch that sets dim level based on its position, not force duration.

The rejection of claim 20 is traversed for the reasons discussed above with respect to claim 10.

With respect to the §102 rejection of claim 13 based on Ko, the rejection is in error because it misstates what Ko discloses. The rejection states that Ko has at least two independent electrical paths between the first and second ends of the flashlight. In fact, Ko has only the conventional single electrical path between the ends: a conductive housing. The action illustrates multiple paths between switches 12, 13, 14, and the controller 3, and between the battery 11 and lamp 21, based on Figure 4.

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However, Figure 3 of Ko shows that only one of these electrical paths extends between the ends of the flashlight. Switches 12 and 13, and the controller 3 are all forward of the batteries, so the connections between them are short, and do not extend between the ends of the flashlight. Similarly, the connection between the forward (non-ground) end of the battery 11 and the lamp is confined to the forward end of the flashlight, and does not extend between the ends. Of all the elements shown in Figure 4 as connected to the controller 3, only trigger 14 is at the rear of the flashlight, and only one electrical path extends to this element. If it were asserted that there was more than one electrical path in Figure 4, neither Figure 3 nor the text provides any support for such an interpretation, as the housing is the only illustrated or discussed means for providing an electrical path.

For these reasons, Ko should be allowable.

Claim 21 has been added to reflect the limitations of claim 3, plus additional clarifications. The rejection of claim 3 under §102 based on Ko is in error because the cited reference does not disclose a switch at the end of the flashlight opposite the lamp, and having an on state and an off state, with the controller responsive to illuminate the lamp when the switch is in the on state, and cease illumination when in the off state. The Ko tail switch invokes a flashing mode, and does not control whether the unit is on or off.

All pending claims should be allowable for the above reasons. Reconsideration of the application is respectfully requested.

Respectfully submitted,  
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